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Letter dated 18 July 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 12 April 2002 (S/2002/454).

The Counter-Terrorism Committee has received the attached supplementary report from Venezuela, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you could arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

[Original: Spanish]

Letter dated 24 July 2002 from the Chargé d'affaires a.i. of the Permanent Mission of Venezuela to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

I have the honour to address you in connection with the communication of 8 July 2002, by which the Mission transmitted a report supplementary to the report submitted by the Bolivarian Republic of Venezuela on 26 December 2001 in implementation of Security Council resolution 1373 (2001).

Enclosure

Clarifications submitted by the Bolivarian Republic of Venezuela to the United Nations concerning measures taken in implementation of Security Council resolution 1373 (2001)*

Paragraph 1 (a)

Could Venezuela please outline the legislative provisions and procedures that enable its economic and financial system to guard against operations carried out by criminal organizations.

Venezuelan law has a series of provisions governing economic and financial transactions that provide for procedures and penalties to guard against operations carried out by criminal organizations; most of the provisions are contained in three legal instruments:

1. The General Act on Banks and Other Financial Institutions
2. The Organic Law on Narcotic Drugs and Psychotropic Substances
3. Resolution No. 185-01 issued by the Office of the Superintendent of Banks and Other Financial Institutions

The new General Act on Banks and Other Financial Institutions, in keeping with the thrust of other current national legislation and accepted principles of effective banking supervision, mandates banking practices and procedures that promote high ethical and professional standards to prevent the use of the banking system by criminal organizations. For that purpose, under article 226 of the Act a National Financial Intelligence Unit (UNIF) was created within the functional structure of the Office of the Superintendent of Banks and Other Financial Institutions (SBIF). The Unit functions as a central clearing house; it receives, analyses and classifies reports of suspicious activities submitted by the institutions, firms and individuals subject to its supervision and forwards them to the Public Prosecutor's Office. In addition, it gathers financial information (both objective and subjective) on suspicious activities to assist the criminal investigation authorities.

The Organic Law on Narcotic and Psychotropic Substances requires the Venezuelan financial system to design and develop policies and plans to protect itself against the laundering of proceeds of drug trafficking. In that regard, article 213 requires the national executive branch, through the appropriate agencies, to design and develop an operating plan including preventive measures at the national level to keep the banking and financial system from being used to launder funds and economic assets deriving from the commission of the crimes specified in the Law or from activities related thereto.

Article 37 of the Law provides that anyone who, directly or through the intermediary of another natural or juridical person, transfers funds or proceeds deriving from trafficking in narcotic and psychotropic substances and related activities mentioned in the Law shall be subject to from 15 to 25 years' imprisonment.

* The annexes are on file with the Secretariat and are available for consultation.

Resolution No. 185-01 of 12 September 2001 (Rules applicable to entities regulated by the Office of the Superintendent of Banks and Other Financial Institutions on the prevention, control and inspection of money-laundering operations) requires the institution of modern mechanisms for monitoring and controlling the flow of funds, since the entities regulated by the Office of the Superintendent of Banks and Other Financial Institutions may be used by persons engaging in illegal activities.

The resolution also requires consultation, inspection and investigation in the case of operations and transactions in foreign currency with any part of the world that involve $10,000.00 or more, operations and transactions through an offshore centre that involve $3,000.00 or more, border exchange transactions that involve $2,000.00 or more and transfers from Latin American drug-producing countries that involve $750.00 or more. For transactions and operations in national currency, the threshold amount is 4,500,000.00 bolívares.

According to the resolution, it is the responsibility of the Government and of the stockholders, administrators, directors and staff of the regulated entities to prevent the entities from being used as intermediaries for money-laundering. To that end, they are required to set up information and electronic data-processing systems and control procedures aimed at detecting operations that involve the laundering of funds deriving from illegal activities and to assemble the necessary records for reporting to the competent authorities.

Are financial intermediaries other than banks (e.g., attorneys, notaries) required to report suspicious transactions to the public authorities, and if so, what penalties apply if such persons omit to report either wilfully or negligently?

Financial institutions, registries and public notaries are required to report to the criminal investigation authorities all banking transactions that are unusual or that exceed the amounts indicated above in national or foreign currency. Within the Scientific Criminal and Forensic Investigation Force an investigative unit called the Anti-Money-Laundering Division has been set up to be responsible for financial follow-up of all such unusual banking transactions.

Are the provisions described in the report applicable to all criminal offences, including terrorist financing, or only to money-laundering offences?

The provisions described are applicable to the offence of money-laundering and to the offence of terrorism, if the latter is connected to organized crime, which is in effect defined as a crime within the Venezuelan legal system through the act ratifying the United Nations Convention against Transnational Organized Crime, signed in Palermo in 2000 and confirmed on 14 August 2001. The purpose of the Convention is to promote cooperation to prevent, investigate and combat organized crime more effectively. The legal instrument stipulates that the States Parties shall institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions, and, where appropriate, other bodies within its competence that are particularly susceptible to money-laundering that is considered a transnational crime.

Moreover, a draft organic law against organized crime and a draft special law against terrorist acts, both of which have been approved on first reading in the

National Assembly, define the offence of terrorism as an independent offence and also penalize financial actions in support of such an offence.

In addition, the Office of the Superintendent of Banks and Other Financial Institutions issued circular No. SBIF-UNIF-DPC-0563 instructing financial institutions about their obligation to report operations that they find or suspect are related to the laundering of funds deriving from activities connected with organized crime or intended for the financing of terrorism.

Please outline Venezuela's legislation relating to bank secrecy. What means exist for displacing it for the purpose of a criminal investigation?

The General Act on Banks and Other Financial Institutions makes an exception to the general principle that requires financial institutions to maintain bank secrecy. Article 233 of the Act provides that data or information obtained by the Office of the Superintendent of Banks and Other Financial Institutions in its functions of inspection, supervision and oversight shall be turned over on request to the President of the Republic, the Executive Vice-President of the Republic, the President of the National Assembly, the Ombudsman, the Attorney General, the Comptroller General, the presiding justices of the divisions of the Supreme Court of Justice, the Prosecutor General, the Minister of the Interior and Justice, the Ministry of Defence, the judiciary, the tax authorities, as the laws require, and the agencies mentioned in cooperation agreements concluded with other countries. When circumstances require, the information referred to above may be provided to the President of the National Banking Council and to banking and financial supervisory authorities of other countries.

Moreover, article 252 of the Act states that bank secrecy cannot be cited as a reason for refusing requests for information from the Office of the Superintendent of Banks and Other Financial Institutions in the exercise of its functions.

In addition, the Organic Law on Narcotic and Psychotropic Substances, in articles 214 and 215, provides that bank secrecy may not be cited as a reason for refusing requests for information from the authorities, or for failing to produce a report on the banking institution's own initiative when it suspects money-laundering.

Paragraph 1 (b)

Please outline the provisions which exist for the suppression of the financing of terrorism

There are at present no specific provisions in Venezuelan law directed at suppressing the financing of terrorism. However, as a State Member of the United Nations, Venezuela is required to comply with Security Council resolution 1373 (2001) of 28 September 2001 and has therefore taken steps to prevent and suppress the financing of terrorist acts, freeze assets and economic resources of persons involved in such activities and prohibit its nationals and other persons within its territory from assisting with such financing; it is thus complying with the obligation imposed on Member States by resolution 1373 (2001), as further explained under paragraph 1 (a).

Moreover, on 16 November 2001 Venezuela signed the International Convention for the Suppression of the Financing of Terrorism. The Venezuelan Ministry of Foreign Affairs is currently taking the necessary steps to have the legislature fulfil the domestic requirements for ratification in accordance with the Constitution of the Bolivarian Republic of Venezuela.

At the regional level, on 3 June 2002 Venezuela signed the Inter-American Convention against Terrorism, which was adopted at the thirty-second regular session of the General Assembly of the Organization of American States (OAS).

The Convention presents some innovations that are highly important from a legal and political standpoint, such as article 15 on human rights and the treatment of asylum with the aim of preserving that institution. Political offences or offences connected with political offences are excluded from the scope of the Convention, which at the same time provides that political asylum may not be used as a cover by those presumed to have committed terrorist acts. Another important benefit of the Convention is that it promotes broad cooperation among the States parties in preventing and suppressing terrorist acts, including both domestic measures and cooperation on border controls, among law enforcement authorities, through mutual legal assistance and through OAS. The Convention also establishes a flexible mechanism for consultations among the States parties to consider and review its implementation in the light of its aims and objectives.

As a signatory, even though not yet a party, to these conventions, Venezuela is required by international law to ensure that its conduct conforms to their provisions.

The National Assembly is currently debating a draft law against organized crime and a draft special law against terrorist acts, both of which would contain provisions for the suppression of activities connected with the financing of terrorism.

Article 4 of the draft special law against terrorist acts, for example, stipulates that anyone who, directly or indirectly, by any means provides or collects funds intended to be used to commit terrorist acts shall be subject to a penalty of from 15 to 25 years' imprisonment.

Furthermore, article 5 of the draft law provides that anyone who participates in the financing of terrorist acts by laundering funds deriving from illicit drug trafficking or any other activity related to organized crime, either by converting the funds into other assets or transferring them to other countries using any method employed in the banking or financial system or by distributing them for introduction into economic circulation in the country so as to conceal their origin, ownership or other potentially illicit aspects, shall be subject to a penalty of from 20 to 30 years' imprisonment.

Paragraph 1 (c)

Please provide a copy of article 218 of the Organic Code of Criminal Procedure. Are these legal provisions also applicable to the seizure or freezing of economic assets?

Organic Code of Criminal Procedure, article 218:

> "In the course of the investigation of a criminal act, the Public Prosecutor's Office, with authorization from the examining magistrate, may seize correspondence and other documents that are presumed to have been produced by the perpetrator of the punishable act or sent by such person and that may be related to the acts that are being investigated.
>
> Similarly, the Public Prosecutor's Office may order the seizure of documents, certificates, securities and sums of money held in bank accounts or safety deposit boxes or by third parties, when there are reasonable grounds for believing that they are connected with the criminal act that is being investigated.
>
> In the circumstances contemplated in this article, the criminal investigation police may, in cases of need and urgency, request the corresponding order directly from the examining magistrate upon prior authorization, by whatever means, of the Public Prosecutor's Office, which must be noted in the request."

As the article quoted above shows, these provisions are also applicable to the seizure or freezing of economic assets.

Paragraph 1 (d)

Please describe the preventive controls and surveillance measures which ensure that funds intended for the financing of terrorism are not transferred through charitable, religious or cultural organizations.

There are currently no preventive controls in Venezuela to ensure that funds intended for the financing of terrorism are not transferred through charitable, religious or cultural organizations. However, the executive and legislative branches are discussing the adoption of legislation on that subject.

Paragraph 2 (a)

How does Venezuela control the establishment in its territory of paramilitary groups that have the potential to engage in terrorist activities?

The State security bodies (the Military Intelligence Directorate (DIM), the General Sectoral Directorate of Police Intelligence (DISIP)) continuously monitor all groupings that might be likely to engage in paramilitary activities. There are at present no groupings of that type in Venezuela.

Please describe the measures which prevent terrorists obtaining weapons within or outside Venezuela's territory, in particular small arms or light weapons. Please outline the legislation concerning the acquisition and possession, and import and export, of such weapons.

When the draft law on acts of a terrorist nature has been approved by the national legislative branch, the country will have the means of taking the executive measures necessary to ensure that terrorists do not obtain weapons within or outside Venezuelan territory.

With regard to legislation concerning the acquisition, possession, import and export of weapons the Arms and Explosives Act published in *Gaceta Oficial No. 19.900,* dated 12 June 1939, provides in article 7 that the import, manufacture, carriage, possession and concealment of weapons of war and ammunition by individuals shall be punishable in accordance with the provisions of the Venezuelan Penal Code; similarly, in articles 12 and 14 it specifies provisions and regulations for the use of explosives.

It is important to emphasize that Venezuela has signed the Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials of 14 November 1997 and that it now hopes to be able to complete the domestic requirements specified in the Constitution for its ratification, as the National Assembly has approved the Act approving that Convention which was published in *Gaceta Oficial No. 37.357* of 4 January 2002.

Paragraph 2 (c):

Please describe the main provisions of Venezuela's legislation relating to immigration control and the granting of the right of asylum. What are the safeguards in place to prevent criminal groups abusing those provisions?

The Aliens Act of 17 July 1937 sets out the legal framework for the control of immigration together with the procedures for the admission, stay and expulsion of aliens in Venezuela. The main provisions are set out below.

> "Article 6. Any alien coming to Venezuela for admission into its territory must be in possession of a passport issued by the competent authority of his country and stamped by the Venezuelan consular official in the port of embarkation or in the appropriate frontier town, or by such official in the nearest place.
>
> Article 7: No Venezuelan consular official shall issue or stamp a passport unless the person concerned produces an identity document confirming his name and forename, age, civil status, nationality and last place of residence.
>
> Similarly, the alien must produce an attestation of good behaviour and a certificate of vaccination no more than seven years old. The documents specified in this article shall be returnable; and the person concerned must retain them to meet the requirement of article 17 of this Act.
>
> Article 8: The Venezuelan consular official shall in every case verify the resources available to the alien and whether they are adequate to cover the deposit prescribed in article 11 of this Act, and the profession or occupation in which he intends to engage or the purpose of his journey to Venezuela.

Article 9: The passport specified in article 6 may also be issued to a foreign subject or citizen by a Venezuelan consular official.

Article 10: Subject to an international agreement based on reciprocity, passports issued by a competent authority which are valid for a period no greater than one year and are issued to aliens who, because of their lawful activities, need to enter and leave Venezuelan territory frequently shall be accepted for the purposes of article 6 of this Act.

The 'stamp' of the Venezuelan consul or agent shall be valid for the same period as the passport without prejudice to the right of the territorial authorities not to admit the alien on grounds of facts or circumstances subsequent to the date of the consular 'stamp' or the issue of the passport.

Article 16: The Venezuelan consular official shall not stamp the passport of an alien or issue the passport if the alien lacks the necessary resources to make the deposit provided for in article 11 of this Act.

Similarly, he shall not stamp or issue a passport to any alien who does not meet the conditions for admission or whose presence in Venezuela is undesirable, in accordance with this Act; the reasons for not so doing shall be notified by the most expeditious means to the federal executive branch through the Ministry of Foreign Affairs.

Article 17: An alien arriving in Venezuela shall be obliged to report to the first civilian authority at his place of residence within eight days of his arrival and shall submit to the authority the documents referred to in articles 6 and 7 of this Act. Career diplomatic agents and consuls accredited in Venezuela, their families and persons travelling with them in their service shall be exempt from compliance with the formalities set forth in this article and from those required by articles 6 and 7.

Article 21: A register shall be kept in the Ministry of Internal Relations of all aliens legally entering the Republic on the basis of information that shall be sent for that purpose to the Ministry by the authorities in each place of entry.

Article 22: The establishment or change of domicile or residence of aliens within the national territory shall be notified by them to the first civil authority of the place of domicile or residence chosen by them; the information shall be notified to the Ministry of Internal Relations by the competent body.

Article 32: The following shall be denied entry to Venezuelan territory:

1. An alien whose presence may disturb internal public order or compromise the international relations of the Republic.

2. An alien to whom any of the reasons for exclusion specified in the Immigration and Settlement Act apply.

3. An alien who is of bad character or is without means of subsistence or a lawful profession or occupation to provide such means of subsistence.

4. An alien who has committed an offence under ordinary law established by and punishable under Venezuelan law, until such time as he has served his sentence or the statutory limitation period for the offence or the penalty has expired.

5. An alien of less than 16 years of age who on arrival is not under the supervision of another passenger or is not due to be placed under the protection of a person in good standing resident in the country.

6. An alien who is a member of any association, or espouses any cause, that is incompatible with public or civil order or who advocates communism, the violent destruction of established governments or the assassination of national or foreign public officials.

7. An alien who is suffering from leprosy, trachoma, mental derangement, grand mal epilepsy, or any other illness that may be a threat to public health or become a burden for the nation.

8. Barmen, peddlers, vendors of or dealers in shoddy goods or articles and, in general, any alien who earns his livelihood from the petty exploitation of the working class.

9. Aliens who are considered by the immigration authorities of the country as individuals whose character and situation make them manifestly undesirable for immigration into Venezuela.

10. An alien who does not fulfil the requirements set forth in articles 6, 7, 11, 18 and 19 of this Act.

11. In general, any alien whom the President of the Republic considers to be inadmissible.

Single paragraph: The federal executive branch may, if it considers it desirable and taking such measures as it deems necessary, permit the entry into the national territory of aliens referred to in paragraphs 2 and 9 of this article, provided they come to Venezuela on a temporary basis. In such cases the Venezuelan consular officials, in accordance with their orders, shall make a written record in the passports and other relevant documents of the length of time the alien is permitted to remain in the country.

Article 35: In the event of the suspension of the constitutional guarantees under article 36 of the National Constitution, the President of the Republic may detain, arrest or expel aliens who are opposed to the re-establishment or maintenance of peace.

Article 37: The following shall be considered undesirable aliens liable to expulsion:

(a) Anyone who has settled in the national territory having circumvented, evaded or in geheral infringed the laws and regulations concerning admission.

(b) Anyone who is a danger to security or public order.

(c) An alien who has settled in the national territory and has been sentenced and has not served his sentence or is subject to judicial proceedings in another country for offences defined and punishable under Venezuelan legislation, except where such offences are of a political nature.

(d) Anyone who interferes with international relations.

(e) In general, an alien who acts in a manner incompatible with neutrality and any of the requirements of articles 28 and 29 of this Act.

(f) Anyone who, on being requested by the competent authorities, is unable to identify himself, fails to give his true name or conceals his identity or domicile.

(g) Anyone who uses or carries false or counterfeited identity documents or refuses to produce the correct ones."

The regulations of the Aliens Act of 7 May 1942 supplement the provisions of the Act.

With respect to the right of asylum, it is necessary to state at the outset that article 69 of the Constitution of the Bolivarian Republic of Venezuela recognizes and guarantees the right of asylum and refuge; similarly, the fourth transitory provision provides that, within the first year following the instalment of the National Assembly, an Organic Law on Refugees and Asylum Seekers shall be adopted. Accordingly, on 3 October 2001 such a law was published in *Gaceta Oficial No. 37.296*.

For the purposes of ensuring that criminal groups do not abuse the right to asylum granted by the Constitution, the Organic Law provides in article 41 that: "Asylum may not be granted to any person who has been indicted or sentenced by any regular competent court for crimes under ordinary law or has committed offences against peace, war crimes or crimes against humanity defined in international instruments".

In the light of that provision, it may be seen that there are well defined circumstances that prevent the State from granting refugee status to those persons who are governed by the provisions set forth in the above-mentioned rules.

Paragraph 2 (e)

The report does not make clear whether there exists specific legislation aimed at preventing and suppressing acts of terrorism in Venezuela. Please elaborate on this point and outline the relevant legal provisions.

The legal provisions currently in force in Venezuela do not establish terrorism as an independent offence; however, the National Assembly approved the Act against Organized Crime at first reading (6 September 2001) the purpose of which is to prevent, investigate, prosecute and punish offences committed by organized crime, to establish the offences that are deemed to be characteristic of, or specific to, such criminal organizations and define the membership of organized criminal associations.

Article 9 of the Act provides that anyone belonging to and/or acting in the service of, or collaborating with, armed gangs, organizations or groups engaged in organized crime the purpose of which is to subvert the constitutional order and the democratic institutions or to seriously impair public peace and to cause criminal damage, disasters or fire, or to explode mines, bombs or other explosive devices established in the Penal Code and in the Act, respectively, shall be punished by a term of imprisonment of between 10 and 15 years.

In the same context, on 29 November 2001, the National Assembly approved at first reading the draft special law against terrorist acts the purpose of which is to prevent and punish acts that may be regarded as being of terrorist nature. To that end, it imposes a term of imprisonment of between 15 and 25 years penal servitude on any person committing the acts established therein as terrorism. It also imposes a term of between 20 and 30 years penal servitude on anyone taking part in and financing terrorist acts through the process of laundering the proceeds of illicit drug trafficking.

What is the extent of the competence of the courts to deal with terrorist acts, or preparations for terrorist acts, that occur outside Venezuelan territory?

In accordance with the provisions of article 4.2 of the Venezuelan Penal Code:

"The following shall be subject to judicial process in Venezuela and shall be punished in accordance with the criminal law:

1. Venezuelans who, in a foreign country, are accused of treason against the Republic and who commit acts against one another that are punishable under its laws.

2. Foreign subjects or citizens who, in a foreign country, commit any offence against the security of the Republic or against any of its nationals."

It is clear from the above text that Venezuelan courts are competent to investigate, prosecute and, where appropriate, try any offence committed outside Venezuelan territory against the Republic; such acts clearly include terrorist acts or preparations for terrorist acts.

Are there relevant provisions of the Penal Code of Venezuela applicable in all the following circumstances?

Acts committed outside Venezuela by a person who is a citizen of, or habitually resident in, Venezuela (whether that person is currently present in Venezuela or not);

Acts committed outside Venezuela by a foreign national who is currently in Venezuela?

In practice the circumstances mentioned above are covered under our substantive penal law (Penal Code of Venezuela) which provides in article 4:

"The following shall be subject to judicial process in Venezuela and shall be punished in accordance with the criminal law:

1. Venezuelans who, in a foreign country, are accused of treason against the Republic and who commit acts against one another that are punishable under its laws.

2. Foreign subjects or citizens who, in a foreign country, commit any offence against the security of the Republic or against any of its nationals.

In the two cases above, the accused must have come to the territory of the Republic and the proceedings must have been initiated by the aggrieved party,

or by the Public Prosecutor's Office, in cases of treason or offences against the security of Venezuela.

Furthermore, the accused must not have been tried by foreign courts, except where a trial has taken place and the accused avoided sentence.

3. Venezuelans or foreigners who, without the authorization of the Government of the Republic, manufacture, acquire or send arms bound for Venezuela, or in any manner promote their entry into Venezuelan territory.

4. Venezuelans who, while in a foreign country, break laws relating to the marital status and legal capacity of Venezuelans.

5. Diplomatic agents in the cases permitted by international public law in accordance with the National Constitution.

6. Diplomatic agents of the Republic who misconduct themselves in discharging their functions or who commit any punishable offence that is not subject to legal process in the place of their residence because of the privileges inherent in their status.

7. Employees and other members of the personnel and crew of Venezuelan naval vessels and combat aircraft by reason of the commission, in any place, of punishable acts.

8. The captains, or masters, other staff and crew, together with passengers, of merchant ships of the Republic, for punishable acts committed on the high sea or on board ship in the waters of another country, except, however, with respect to passengers, as provided in the second subparagraph of paragraph 2 of this article.

9. Venezuelans or foreigners arriving in the Republic who, on the high sea, commit acts of piracy or other offences characterized by international law as atrocities or crimes against humanity, except where they have already been tried in another country and have served their sentence.

10. Venezuelans who, within or outside the Republic, take part in the slave trade.

11. Venezuelans or foreigners coming to the territory of the Republic who, in another country, counterfeit or take part in the counterfeiting of currency that is legal tender in Venezuela, seals in official use, stamps or credit instruments of the Nation, banknotes or equities, or annuity bonds authorized for issue by the national legislation.

12. Venezuelans or aliens who, in any manner, promote the introduction into the Republic of the assets specified in the preceding paragraph.

The cases specified in the preceding paragraphs shall remain subject to the provisions of the second subparagraph of paragraph 2 of this article.

13. The commanding officers, other officers and other members of an army, by reason of punishable acts committed by them, when crossing neutral foreign territory, against the inhabitants thereof.

14. Aliens who enter parts of the Republic that are not open to foreign trade or who, without entitlement, seize the products of the land, sea, lakes or rivers

of such parties, or who, without permission or title, make use of their uninhabited lands.

15. Aliens who infringe quarantine regulations and other provisions established for the benefit of public health.

16. Aliens or Venezuelans who, in time of peace, from foreign territory, warships or aircraft, launch projectiles or inflict other harm on Venezuelan towns, inhabitants or territory, except as provided in the two subparagraphs of paragraph 2 of this article."

Paragraph 2 (f)

Please describe the institutional mechanism available in Venezuela for the exchange of operational information. Does Venezuela have a law relating to the provision of mutual assistance to other countries?

The Office of the Superintendent of Banks has signed a Memorandum of Understanding for the exchange of financial information through the National Financial Intelligence Unit (UNIF) with the following countries: Colombia, Spain and the United States of America (signed with the Embassy of the United States of America, on 16 September 1999, for cooperation and exchange of information).

The exchange of information also takes place through the Financial Crimes Enforcement Network, with the Federal Bureau of Investigation (FBI) and Interpol which is the body responsible in Venezuela for maintaining the exchange of intelligence information jointly with the General Sectoral Directorate of Police Intelligence (DISIP) and the Scientific Criminal and Forensic Investigation Force (CIPC).

In the international legal field, Venezuela, on 14 January 1996, signed and ratified the Inter-American Convention on Mutual Assistance in Criminal Matters.

With regard to the provision of mutual assistance to other countries, Venezuela, as a member of the Organization of American States, signed and ratified as of 25 August 1948, the Inter-American Treaty of Reciprocal Assistance. The Meeting of Consultation of the Organization of American States unanimously decided to apply that treaty and, accordingly, Venezuela has supported that body, bearing in mind that the purpose of the international instrument is hemispheric cooperation for the purpose of preventing and suppressing threats and acts of aggression against any of the countries of the American continent.

Paragraph 2 (g)

Is there a law on extradition in Venezuela, or is extradition governed by bilateral treaties or non-treaty arrangements only?

There is currently no law on extradition in Venezuela and in practice extradition is governed solely by bilateral treaties or non-treaty arrangements. However, article 271 of the Constitution provides that: "In no case may the extradition of aliens responsible for crimes involving money-laundering, drugs, organized international crime, attacks against the public property of other States and against human rights, be refused. There shall be no time limit in respect of judicial action designed to punish crimes against human rights or against public property or

drug trafficking. Similarly, subject to a judicial decision, the property deriving from activities related to such offences shall be confiscated."

The Venezuelan Penal Code provides in that connection in article 6 that:

> "The extradition of a Venezuelan may not be granted on any grounds; but he must be tried in Venezuela, at the request of the aggrieved party or of the Public Prosecutor's Office, if the crime of which he is accused is punishable under Venezuelan law.
>
> The extradition of an alien may not be granted for political offences or for breaches of law relating to such offences, or for any action not established as an offence by Venezuelan law.
>
> The extradition of an alien for ordinary crimes may be granted only by the competent authority, in accordance with the procedures and requirements established for that purpose by the international treaties signed by Venezuela and which are in force or, failing that, by Venezuelan legislation ..."

With respect to extradition, Venezuela has signed and ratified a series of international treaties and conventions, for example the Extradition Treaty between the Republic of Venezuela and the Kingdom of Spain, published in *Gaceta Oficial No. 34.476* of 28 May 1990. By that instrument Venezuela undertakes to deliver persons being prosecuted by the judicial authorities of the other Party on grounds of the commission of terrorist acts as defined in that instrument.

Paragraph 3 (c)

Please provide a list of the relevant bilateral and multilateral agreements to which Venezuela is a party.

The international conventions concerning terrorism that have been signed and ratified by Venezuela are the following:

1. The Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963. The Venezuelan legislature approved the Convention on 27 May 1982 and it was ratified by the executive branch on 13 June 1982 and published in *Gaceta Oficial No. 2.975 Extraordinario* of 2 July 1982. This instrument authorizes the aircraft commander to impose reasonable security measures on any person who has committed or is about to commit an offence and requires the States parties to take offenders into custody.

2. The Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970. The legislature approved the Convention on 4 November 1982 and it was ratified by the executive branch on 5 April 1983 and published in *Gaceta Oficial No. 32.700* of 7 April 1983. The Convention requires States parties to impose severe penalties on persons who seize or attempt to seize aircraft and to extradite the offenders or bring them to justice.

3. The Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, opened for signature at Montreal on 23 September 1971. The legislature approved the Convention on 16 December 1982, it was ratified by the executive branch on 23 March 1983 and published in *Gaceta Oficial No. 32.740* of 3 June 1983. The Convention requires the imposition of severe penalties and the extradition or bringing to justice of offenders.

4. The International Convention against the Taking of Hostages, adopted by the United Nations General Assembly in New York on 18 December 1979. It was approved by the legislature on 24 August 1988, ratified by the executive branch on 7 October 1988 and published in *Gaceta Oficial No. 34.069* of 10 October 1988. The States parties agree that the taking of hostages shall be punishable by appropriate penalties; they undertake to prohibit certain activities in their territory and to exchange information and institute criminal or extradition proceedings.

5. Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, adopted at Montreal in 1988. Venezuela has only signed this Protocol.

6. In November 2001, Venezuela signed the International Convention for the Suppression of the Financing of Terrorism, adopted in New York in 1999.

7. On 7 November 1973, Venezuela ratified the Convention to Prevent and Punish the Acts of Terrorism Taking the Form of Crimes against Persons and related Extortion that are of International Significance. It was signed at the third special session of the General Assembly of the Organization of American States held in Washington, D.C. on 2 February 1971. It was published in *Gaceta Oficial No. 30.223* of 5 October 1973.

8. It is also important to mention that, on 25 August 1948, Venezuela, as a member of the Organization of American States, ratified the Inter-American Treaty of Reciprocal Assistance which was signed at Rio de Janeiro in September 1947.

9. The International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly in 1997, was signed but has not been ratified by the National Legislative Commission.

The annex contains a summary table, updated to June 2002.

Are there laws in force specifically to implement the relevant conventions and protocols relating to terrorism already ratified by Venezuela or is their implementation provided for by the penal laws of Venezuela? Please outline any relevant laws.

The Constitution of the Bolivarian Republic of Venezuela, as the supreme legal instrument, provides in article 23 that: "The treaties, covenants and conventions relating to human rights signed and ratified by Venezuela have constitutional force and shall prevail in the internal order to the extent that they comprise standards on the enjoyment and exercise of human rights more favourable than those established in the Constitution and in the legislation of the Republic, and shall be immediately and directly applicable by the courts and other governmental bodies."

Article 154 of the Constitution sets forth the procedure to be followed in connection with international treaties signed by the Republic and provides that treaties adopted by the Republic must be approved by the National Assembly and subsequently by the President of the Republic in order to be ratified. Upon ratification, an international treaty automatically becomes a law within the current Venezuelan legal framework, ratification being the process whereby the State, under its domestic law, establishes the requirements to undertake binding international obligations.

Paragraph 4

Has Venezuela addressed any of the concerns expressed in paragraph 4 of the resolution?

There is so far no indication that situations described in paragraph 4 of the resolution have arisen.

Other matters

Could Venezuela please provide an organizational chart of its administrative machinery, such as police, immigration control, customs, taxation and financial supervision authorities, established to give practical effect to the laws, regulations and other documents that are seen as contributing to compliance with the resolution.

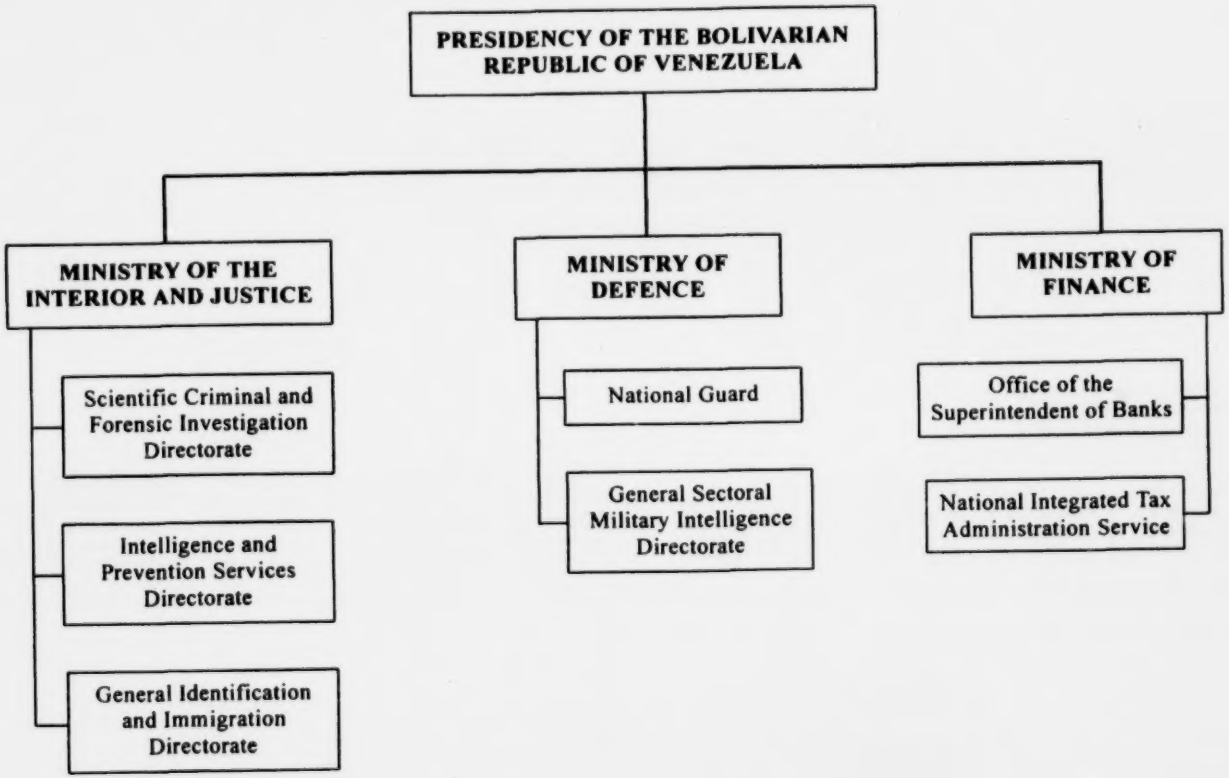
See the annex to this document.

(*Signed*) Alcides Rondón **Rivero**
Deputy Minister

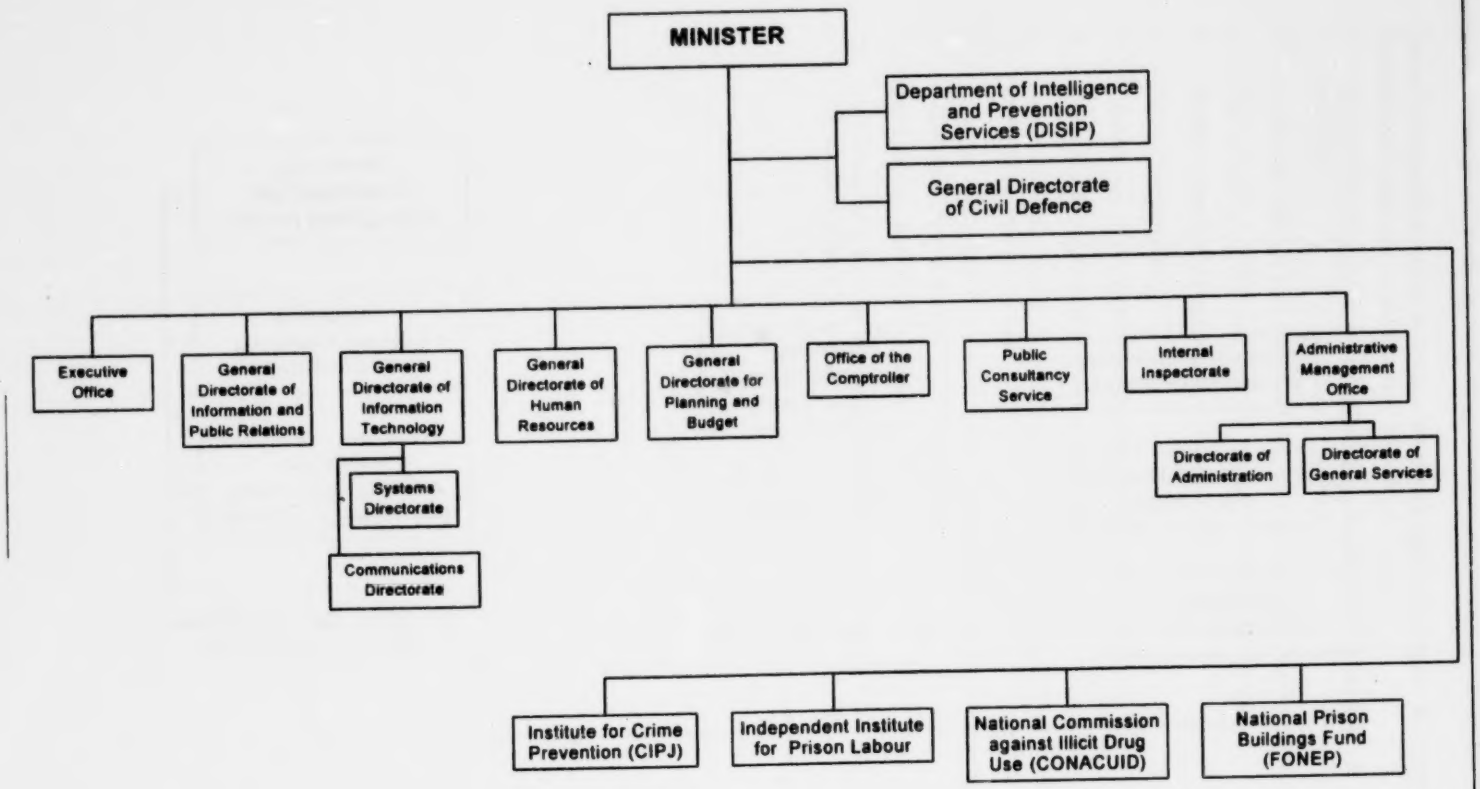
List of documents attached to the second report submitted by the Bolivarian Republic of Venezuela to the Counter-Terrorism Committee

1. Organizational chart of government departments directly involved in counter-terrorism
2. Organizational chart of the Office of the Minister of the Interior and Justice
3. General Act on Banks and Other Financial Institutions
4. Organic Law on Refugees and Asylum Seekers
5. Penal Code (extract)
6. Constitution of the Bolivarian Republic of Venezuela (extract)
7. Organic Code of Criminal Procedure (extract)
8. Resolution No. 185-01 of the Office of the Superintendent of Banking and Other Financial Institutions
9. Circular No. SBIF-UNIF-DPC-0463 of the Office of the Superintendent of Banks and Other Financial Institutions
10. Draft special law on terrorist acts
11. Consolidated list of international instruments concerning terrorism to which Venezuela is a Party

Government departments directly involved in counter-terrorism


PRESIDENCY OF THE BOLIVARIAN REPUBLIC OF VENEZUELA
MINISTRY OF THE INTERIOR AND JUSTICE
Scientific Criminal and Forensic Investigation Directorate
Intelligence and Prevention Services Directorate
General Identification and Immigration Directorate
MINISTRY OF DEFENCE
National Guard
General Sectoral Military Intelligence Directorate
MINISTRY OF FINANCE
Office of the Superintendent of Banks
National Integrated Tax Administration Service

Organizational chart of the Office of the Minister of the Interior and Justice


MINISTER
Department of Intelligence and Prevention Services (DISIP)
General Directorate of Civil Defence
Executive Office
General Directorate of Information and Public Relations
General Directorate of Information Technology
General Directorate of Human Resources
General Directorate for Planning and Budget
Office of the Comptroller
Public Consultancy Service
Internal Inspectorate
Administrative Management Office
Directorate of Administration
Directorate of General Services
Systems Directorate
Communications Directorate
Institute for Crime Prevention (CIPJ)
Independent Institute for Prison Labour
National Commission against Illicit Drug Use (CONACUID)
National Prison Buildings Fund (FONEP)